

**Notice of Allowability**

Application No.

09/915,363

Examiner

Kevin S Wood

Applicant(s)

JETTE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 6/9/09.
2. ☒ The allowed claim(s) is/are 36-73.
3. ☒ The drawings filed on 10 October 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 4/26/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Brian Healy  
Primary Examiner

## **DETAILED ACTION**

### ***Preliminary Amendment***

1. The Preliminary Amendment filed on 9 June 2004 has been received and entered. Claims 1-35 are cancelled. New claims 36-73 have been added. Claims 36-73 are pending in the application.

### ***Drawings***

2. The drawings were received on 10 October 2001. These drawings are accepted by the examiner.

### ***Allowable Subject Matter***

3. Claims 36-73 are allowed.
4. The following is an examiner's statement of reasons for allowance:

Referring to claims 36-73, the instant application is deemed to be directed to a nonobvious improvement over the invention patented in U.S. Patent No. 6,444,321 (Berini et al.). The Berini et al. reference shares an inventor, Pierre Simon Joseph Berini, and the assignee, Spectalis Corp, with the instant application. The Berini et al. reference discloses an optical device including a waveguide structure formed by a thin strip of material having a relatively high free charge carrier density surrounded by a material having a relatively low free charge carrier density, the strip having a finite width and thickness with dimensions such that optical radiation having a wavelength in a predetermined range couples to the strip and propagates along the length as a

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plasmon-polariton wave. The Berini et al. reference does not disclose a grating, for filtering optical radiation, formed of a plurality of sections of these waveguide structures where each adjacent structure has physical characteristics that differ from the physical characteristics of adjacent sections. The examiner believes that the use of the waveguides disclosed in the Berini et al. reference as sections of a grating, where the physical characteristics of each waveguide section differ from the adjacent waveguide sections, is a nonobvious improvement.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,034,809 to Anemogiannis

U.S. Patent No. 4,765,705 to Seymour et al.

Each of these references discloses gratings used for coupling plasmon-polariton waves. Neither discloses the gratings being formed from a plurality of sections of waveguide structures where each adjacent structure has physical characteristics that differ from the physical characteristics of adjacent sections.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S Wood whose telephone number is (571) 272-2364. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KSW



**Brian Healy**  
Primary Examiner